

**JAMES J. WEST LLC**  
105 North Front Street  
Suite 205  
Harrisburg, PA 17101  
(717) 233-5051  
(717) 234-7517

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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES	: No. 1:11-CR-96
	:
v.	: (Caldwell, J.)
	:
MICHAEL STRAUSBAUGH	: Filed Electronically
Defendant	:

**BRIEF IN SUPPORT OF MOTION TO PERMIT A  
CONFERENCE BETWEEN DEFENDANTS AND COUNSEL**

**I. Statement of the Case**

On March 23, 2011, the Defendant Michael Strausbaugh and his wife, Rebecca Strausbaugh, were indicted for producing child pornography on December 28, 2010, using materials that had been shipped, mailed or transported in interstate or foreign commerce in violation of 18 U.S.C. §2251(a) and (e) (Count 1). In addition, Michael Strausbaugh was charged with distributing child pornography in violation of 18 U.S.C. §2252(a)(2) and (b) (Count 2), and possessing child pornography in violation of 18 U.S.C. §2252A(a)(5)(B) (Count 3).

On May 4, 2011, the Defendant Michael Strausbaugh and his wife were the subject of a superceding indictment which added Counts 4 and 5 charging additional production

using interstate materials on December 3, 2010 and August 21, 2010 respectively. Finally, Count 6 of the superceding indictment contains a forfeiture allegation seeking criminal forfeiture of the Defendant's home at 1946 East Berlin Road, New Oxford, Adams County, Pennsylvania and any other property used in the commission of the offenses charged in Counts 1, 2, 4 and 5.

## **II. Statement of the Facts**

The Defendants have not had a face-to-face meeting since they were arrested and incarcerated at Adams County Prison. They are the parents of a young child who has been in the care and custody of the Defendant Rebecca Strausbaugh's parents since her arrest. The prosecution in this case has made certain plea agreement offers dealing with mandatory minimum sentences, forfeiture of the family home, fines, penalties and other matters relating to the disposition of the charges presently pending against the Defendants.

The Defendants have both expressed to counsel that they would like to meet with each other, in the presence of both their appointed counsel, to discuss appropriate custody arrangements for their minor child, and the government's plea bargaining offers. Both appointed counsel agree to attend such a meeting and participate in those discussions.

The prosecution has indicated that it will not allow the Marshall's Service to consent to such a meeting and, accordingly, such a meeting is not possible at this juncture without the Court's permission. The prosecutor has indicated that he "does not see anything that cannot otherwise be accomplished through counsel or family members."

### III. Argument

We believe this is a matter completely within the discretion of the Court and are appealing to that discretion.

The Defendants are federal prisoners who have been detained prior to trial under the provisions of the Bail Reform Act of 1984, 18 U.S.C. §3141. The conditions of their confinement and detention are clearly within the jurisdiction and discretion of the Court and both defense counsel are unaware of any unique circumstances in this case that would auger against the Defendants meeting with each other, in the presence of counsel, in order to decide serious family issues arising from the charges pending in this matter. Such a meeting will not interfere with their appearance at trial or present any danger to the community and is necessary for the Defendants to discuss the future custody of their child and the prosecution's plea agreement offers – items which a husband and wife should confer upon.

### V. Conclusion

It is respectfully requested that this Court enter an Order allowing a meeting of the Defendants, in the presence of their counsel, to go forward as soon as it can be scheduled for the convenience of the prison and counsel.

Respectfully Submitted,

s/ James J. West

James J West  
105 North Front Street, Suite 205  
Harrisburg, PA 17101  
[jwest@jwestlaw.com](mailto:jwest@jwestlaw.com)

Dated: July 12, 2011

Counsel for Michael Strausbaugh

**CERTIFICATE OF SERVICE**

I hereby certify that on this 12<sup>th</sup> day of **July 2011**, a true and correct copy of the foregoing document was served upon the party named below via the Court's ECF Filing System addressed as follows:

Daryl F. Bloom  
Assistant United States Attorney  
[Daryl.Bloom@usdoj.gov](mailto:Daryl.Bloom@usdoj.gov)

s/ Joanne M. Bartley  
Joanne M. Bartley  
Assistant to James J. West, Esquire